

**State of New Mexico, Administrative Hearings Office**  
**Explanation of the Hearing Process (Implied Consent Act)**

**Hearing Process**

The purpose of the hearing you have requested is to determine if the proposed revocation of your driver's license or driving privileges by the Motor Vehicle Division is proper and in accordance with the provisions of the Implied Consent Act of New Mexico (Section 66-8105 to 66-8-102, NMSA 1978). The hearing process will be conducted pursuant to the regulations found in the New Mexico Administrative Code Section 18.19.9, online at [http://www.tax.state.nm.us/regs/Motor\\_Vehicle\\_Code.pdf](http://www.tax.state.nm.us/regs/Motor_Vehicle_Code.pdf). The Administrative Hearing is limited to a consideration of the issues indicated on the Hearing Notice and those listed in Section 66-8-112 (e), NMSA 1978.

**Distinction Between Criminal and Administrative Hearing**

This hearing is not related to the court hearing on the criminal charge of DWI. Questions about your criminal case should be directed to the clerk of the court hearing your case or your Attorney. All questions about this Administrative Hearing should be directed to the Administrative Hearings Office Scheduling Unit at (505) 827-0358. **A CONTINUANCE OF YOUR CRIMINAL CASE OR DISMISSAL OF THE CRIMINAL CHARGES HAS NO EFFECT ON THE ADMINISTRATIVE HEARING.** However, if as a result of a criminal conviction, you no longer wish to contest the proposed revocation of your driving privileges, you may submit a written request to withdraw your Implied Consent Act hearing request. By submitting a withdrawal of your hearing request, the scheduled hearing date will be cancelled and the revocation of your driving privileges will be sustained without a hearing.

**Conduct of the Hearing**

Your hearing will be heard by an Attorney-Hearing Officer employed by the Administrative Hearings Office. **YOU MUST APPEAR AT THE HEARING AT THE SCHEDULED TIME.** The Hearing Officer will wait only ten (10) minutes for you. If you do not appear, your license will be revoked. Because the hearing is informal, the technical rules of evidence do not apply. However, all testimony must be given under oath. If subpoenaed to the hearing, the Motor Vehicle Division will first present its witness, the Police Officer. After the Police Officer testifies, you will be given the opportunity to ask any relevant questions, testify and present any relevant documents or other witnesses. Please have all the evidence, exhibits and any witnesses you intend to present ready at the time of the scheduled hearing. The records will not be left open beyond the day of the hearing, unless so ordered by the Hearing Officer.

You may be represented by an attorney at your own expense. It is the driver's sole responsibility to secure an attorney. If you are unable to appear at the hearing, you may have an attorney appear on your behalf in order to avoid losing your right to a hearing. Absence of an attorney is not a basis for a continuance. The Hearing Officer's written decision (Decision and Order) will be mailed to you, and will explain your appeal rights.

**Continuances**

A request for a continuance may be requested in writing if you have good cause and if it is received by the Administrative Hearings Office Scheduling Unit at least three (3) working days prior to the day scheduled for the hearing, absent extraordinary circumstances which the requesting party could not have

known earlier. No continuance will be granted beyond ninety (90) days after the Notice of Revocation. Fax or mail any continuance request to: Administrative Hearings Office Scheduling Unit at (505) 827-0500 or PO Box 6400, Santa Fe, New Mexico 87502.

### **Discovery**

All request for documents, including DVDs or videos, pertaining to your arrest must be mailed to: Taxation and Revenue Division, Legal Services Bureau, Attn: DWI Legal, PO Box 630, Santa Fe, NM 87504-0630. You may fax request to (505) 827-0684. If the Legal Services Bureau receives a request, it can provide copies of the documents within the files of the Motor Vehicle Division and can issue a Discovery Order for the documents that are in the custody of the police agency. If the police agency does not make the documents you requested available in a timely manner, you must notify the Department in writing, pursuant to Regulation 18.19.9.9(C) NMAC.

### **Witnesses**

Requests to subpoena witnesses must be made in writing no later than ten (10) days prior to the hearing. Requests should be mailed to the Administrative Hearings Office, PO Box 6400 Santa Fe, NM 87502. You may fax request to (505) 827-0500. The party requesting the subpoenas is responsible for associated costs and for actual serving of the subpoenas. Please make sure that all your witnesses are available at the time of the hearing.

### **Conduct of Telephonic Hearings**

If the Hearing Officer is scheduled to appear by telephone, you still must appear in person to at the address listed on the hearing notice, as required under Regulation 18.19.9.8 (D) NMAC. The Hearing Officer will call the hearing room at the location listed on the hearing notice at the time of scheduled hearing. If you fail to appear at the location listed on the hearing notice, you will forfeit your right to a hearing. You may object to the Hearing Officer appearing by telephone, but any objection to the telephonic notice must be done within ten (10) days from the date on the Important Notice of Telephonic Hearing. If you do not object, you shall be deemed to have consented to the telephonic hearing. All DVDs or other documents must be submitted to the Hearing Officer prior to the hearing at: Administrative Hearings Office Scheduling Unit, PO Box 6400, Santa Fe, New Mexico 87502. For package delivery, please address items to Administrative Hearings Office, 1220 S. St. Francis Drive, Rm. 264, Santa Fe, NM 87504.

If you do not speak or understand English, you must bring a person who can translate for you. This person does not have to be a court certified interpreter. **\*Si usted no habla ni entiende ingles, tiene que traer alguna persona que le pueda traducir. Esta person no tiene que ser certificado por la corte\*.**